

**04-1329    ILLINOIS TOOL WORKS INC., ET AL. V. INDEPENDENT INK, INC.**

DECISION BELOW:            396 F.3d 1342 (Fed. Cir. 2005)

QUESTION PRESENTED

Whether, in an action under Section 1 of the Sherman Act, 15 U.S.C. § 1, alleging that the defendant engaged in unlawful tying by conditioning a patent license on the licensee's purchase of a non-patented good, the plaintiff must prove as part of its affirmative case that the defendant possessed market power in the relevant market for the tying product, or market power instead is presumed based solely on the existence of the patent on the tying product.

Cert. Granted 6/20/05